

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DERICK DEVON HAYNES

PLAINTIFF

V.

CIVIL ACTION NO. 3:18-CV-67-DPJ-FKB

WARDEN CHERON NASH

DEFENDANT

ORDER

This habeas corpus case is before the Court on the Report and Recommendation of United States Magistrate Judge F. Keith Ball [17]. Given Petitioner Derick Devon Haynes's release from incarceration in February 2020, Judge Ball recommended dismissal of Haynes's petition challenging sentence enhancements for lack of a case or controversy. The R&R also noted that, since Haynes did not submit a current address to the Clerk of Court following his release from incarceration, the case was "also subject to dismissal without prejudice for want of prosecution and failure to comply with the local rules of this Court." R&R [17] at 3. On February 1, 2021, the copy of the R&R the Clerk mailed to Haynes at his address of record was returned as undeliverable. Mail Returned [18].

"The authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted." *Link v. Wabash R.R.*, 370 U.S. 626, 629 (1962); *see also McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). This "inherent power" is "governed . . . by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link*, 370 U.S. at 629–30. Such dismissals are sometimes "necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars" of the Court. *Id.* at 629.

Having reviewed the R&R, the Court agrees with Judge Ball that absent a showing that Haynes continues to suffer a collateral consequence of his conviction, his petition is now moot. Additionally, in light of Haynes's failure to advise the Court of his current address, the Court finds that the petition is likewise due to be dismissed for failure to prosecute.

The Court therefore adopts the R&R as its opinion. Haynes's petition is dismissed without prejudice as moot and for failure to prosecute. A separate judgment will be entered in accordance with Federal Rule of Civil Procedure 58.

SO ORDERED AND ADJUDGED this the 2nd day of February, 2021.

s/ Daniel P. Jordan III
CHIEF UNITED STATES DISTRICT JUDGE